

## LEEDS BROWN LAW, P.C.

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*Attorneys at Law*

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May 28, 2013

**Via ECF**

Honorable Magistrate Judge Arlene Lindsay  
U.S. District Court – Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

**Re: Joseph Arena, et al. v. Delux Transportation Services, Inc. et al.**  
Case No. 12-CV-1718 (LDW)(ARL)

Dear Judge Lindsay:

Our firm represents Joseph Arena (“Arena”) and the proposed putative class (“Plaintiffs”) in the above-referenced action. We write in response to Defendants’ letter application dated May 22, 2013 (Doc. 68) for an Order seeking compliance with this Court’s March 11, 2013 Order. (Doc. 56).

In the March 11, 2013 Order, Plaintiff Joseph Arena was directed “to provide the defendants with copies of his 2011 and 2012 tax returns.” In accordance with this order, Mr. Arena turned over a copy of his 2011 federal tax returns shortly thereafter. Plaintiff does not have a copy of his 2011 state tax returns. Plaintiff did not file for tax returns in 2012. I conveyed this to Ted Hecht, attorney for the Defendants on May 14, 2013 and, waiting until the day before our opposition to his massive summary judgment was do, Mr. Hecht decided to write us a letter indicating that we were not in compliance with this Court’s March 11, 2013 Order for not providing the required tax returns, nor, alternatively, “has he provided a statement that attesting to the fact that he has not filed the missing returns.” (See Ex. A.). However, nowhere in this Court’s March 11, 2013 is there such a requirement that Mr. Arena provide such a statement.

Most surprisingly, Mr. Hecht’s motion for summary judgment does not contain any argument for the same based on Mr. Arena’s filling or failure to file tax return, and yet his letter application for the aforementioned Order boldly asserts that “defendants are entitled to review plaintiff’s tax returns in preparation of their reply or know that he has failed to file returns”

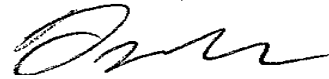
In short, Plaintiff has turned over what is in his possession, custody, and control in connection with this Court’s March 11, 2013 Order. If this Court order’s Plaintiff to provide

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sworn statements attesting to the same, Plaintiff will comply. We thank the Court for the anticipated time, courtesy, and consideration taken on account of this letter reply.

Sincerely,

Leeds Brown Law, P.C. .

A handwritten signature in black ink, appearing to read 'D. Rosenberg', written over a horizontal line.

David H. Rosenberg, Esq.

*For the firm*

cc: All Counsel of Record (via ECF)

# EXHIBIT A

Schnader  
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May 21, 2013

**VIA EMAIL & FIRST CLASS MAIL**

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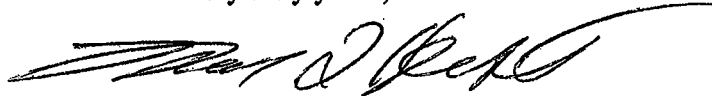
Re: *Joseph Arena, et al. v. Delux Transportation Services, et al.*  
Docket No. 12-CV-01718 (LDW)(ARL)

Dear Mr. Rosenberg:

Plaintiff still has not complied with the Court's order dated March 11, 2013. He has not provided the required tax returns, nor, alternatively, has he provided a statement attesting to the fact that he has not filed the missing returns.

Please remedy plaintiff's non-compliance with the Court's order immediately.

Very truly yours,



Theodore L. Hecht  
For SCHNADER HARRISON SEGAL & LEWIS LLP

TLH/dm